

State of South Dakota

EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

229L0130

HOUSE BILL NO. 1010

Introduced by: The Committee on Judiciary at the request of the Office of the Secretary of State

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding federal tax lien
2 registrations.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 44-7-1.1 be amended to read as follows:

5 44-7-1.1. ~~The provisions of this~~ This chapter ~~apply~~ applies only to federal tax liens and to
6 other federal liens notices ~~of which~~ that, under any act of Congress or any federal regulation
7 adopted pursuant ~~thereto~~ to any act of Congress, are required or permitted to be filed in the same
8 manner as notices of federal tax liens.

9 Section 2. That § 44-7-4.1 be amended to read as follows:

10 44-7-4.1. If a notice of federal lien, a refiling of a notice of federal lien, or a notice of
11 revocation of any certificate described in § 44-7-5.1 is presented ~~to a filing officer~~ for filing:

12 (1) ~~The~~ To the secretary of state, the secretary of state shall cause the notice to be
13 marked, held, and indexed in accordance with the provisions of chapter 57A-9, as if
14 the notice were a financing statement within the meaning of ~~that chapter~~ the Uniform
15 Commercial Code; or



(2) ~~Any~~ To any register of deeds, ~~the register of deeds~~ shall ~~endorse thereon his~~
~~identification and the date and time of receipt and forthwith file it alphabetically or~~
~~enter it in an alphabetical index showing the name and address of the person named~~
~~in the notice, the date and time of receipt, the title and address of the official or entity~~
~~certifying the lien, and the total amount appearing on the notice of lien~~ receive,
record, and index the notice in the same manner as similar instruments are recorded
and indexed.

Section 3. That § 44-7-5.1 be amended to read as follows:

44-7-5.1. If a certificate of release, nonattachment, withdrawal, discharge, or subordination
of any lien is presented to the secretary of state for filing ~~he, the secretary of state~~ shall:

(1) Cause a certificate of release ~~or, nonattachment, or withdrawal~~ to be marked, held,
and indexed as if the certificate were a termination statement within the meaning of
the Uniform Commercial Code, but the notice of lien to which the certificate relates
may not be removed from the files; and

(2) Cause a certificate of discharge or subordination to be marked, held, and indexed as
if the certificate were a release of collateral within the meaning of the Uniform
Commercial Code.

Section 4. That chapter 44-7 be amended by adding thereto a NEW SECTION to read as
follows:

The filing officer shall accept liens described in this chapter in the method or medium
authorized by the filing office in accordance with chapter 57A-9 and rule of the appropriate
filing office.

Section 5. That § 44-7-6.1 be repealed.

~~44-7-6.1. If a refiled notice of federal lien referred to in § 44-7-4.1, or any of the certificates~~

1 ~~or notices referred to in § 44-7-5.1 is presented for filing to any register of deeds, he shall~~
2 ~~permanently attach the refiled notice or the certificate to the original notice of lien and enter the~~
3 ~~refiled notice or the certificate with the date of filing in any alphabetical lien index on the line~~
4 ~~where the original notice of lien is entered.~~

5 Section 6. That § 44-7-7.1 be repealed.

6 ~~—44-7-7.1. Upon request of any person, the filing officer shall issue his certificate showing~~
7 ~~whether there is on file, on the date and hour stated therein, any notice of lien or certificate or~~
8 ~~notice affecting any lien filed under this chapter, naming a particular person, and if a notice or~~
9 ~~certificate is on file, giving the date and hour of filing of each notice or certificate. The fee for~~
10 ~~a certificate shall be five dollars. Upon request, the filing officer shall furnish a copy of any~~
11 ~~notice of federal lien, or notice or certificate affecting a federal lien, for a fee of fifty cents per~~
12 ~~page.~~

13 Section 7. That § 44-7-8.1 be amended to read as follows:

14 ~~44-7-8.1. The fee for filing and indexing each notice of lien or certificate or notice affecting~~
15 ~~the lien is:~~

16 ~~—(1)— For a lien on real estate, five dollars;~~

17 ~~—(2)— For a lien on tangible and intangible personal property, five dollars;~~

18 ~~—(3)— For a certificate of discharge or subordination, five dollars;~~

19 ~~—(4)— For all other notices, including a certificate of release or nonattachment, five dollars.~~

20 ~~—The state or county official shall bill the district directors of internal revenue or other~~
21 ~~appropriate federal officials on a monthly basis for fees for documents filed by them. For filing~~
22 ~~a lien or certificate or notice affecting any lien filed under this chapter, the fee is as follows:~~

23 (1) Twenty dollars if the record is communicated in writing; and

24 (2) Fifteen dollars if the record is communicated by another method or medium

1 authorized by filing office rule.

2 If the filing is with the secretary of state, one dollar of the fee shall be deposited into the
3 financing statement filing fee fund.

4 Section 8. That chapter 44-7 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 For responding to a request for information from the filing office, including communicating
7 whether there is on file any lien, certificate, or notice affecting any lien filed under this chapter
8 naming a particular debtor, the fee is as follows:

9 (1) Twenty dollars if the record is communicated in writing; and

10 (2) Fifteen dollars if the record is communicated by another method or medium
11 authorized by filing office rule.

12 The secretary of state shall use the procedures set forth in § 57A-9-523 to respond to a
13 request for information from the filing office.

14 Section 9. That chapter 44-7 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 This chapter shall be applied and construed to effectuate its general purpose to make
17 uniform the law with respect to the subject of this chapter among states enacting it and to permit
18 the filing office to use a filing system to record and maintain notices of liens, certificates, and
19 other notices affecting federal tax liens or other federal liens in a manner authorized by the filing
20 office and to permit federal officials to file notices of liens, certificates, and notices affecting
21 those liens upon real or personal property for obligations payable to the United States under the
22 filing system authorized by the filing office.